

REMARKS

The present communication responds to the non-final Office action of September 25, 2006 in which the Examiner rejected claims 16-20, 24, 25, 27-30 and 32-40. Claims 16-20, 24, 25, 27-30, 32-38 and 40 were rejected under 35 U.S.C. § 112, first paragraph. Claims 16-20, 24, 25, 27-30 and 32-40 were rejected under 35 U.S.C. § 112, second paragraph.

The claim rejections are traversed in view of the above amendments and for at least the reasons articulated below, and reconsideration is requested.

Claims 16-20, 24, 25, 27-30 and 32-40 are currently pending. Claims 16, 33, 35, 39 and 40 have been amended. Support for the amended claims can be found in general throughout the specification and in particular, for example, at page 2, lines 4-5, page 3, lines 1-3 and 15-18, page 7, lines 16-18, page 8, lines 3-6 and FIG. 1. No new matter has been added.

Rejection under 35 U.S.C. § 112, First Paragraph

Claims 16-20, 24, 25, 27-30, 32-38 and 40 were rejected under 35 U.S.C. § 112, first paragraph.

Claims 16 and claim 40 have been amended to clarify that the membrane has no analyte window or no unselective pores or perforations. In Applicant's specification, "so-called analyte windows" are further defined "i.e. unselective pores or perforations in an oxygen-permeable, analyte-impermeable membrane," (see Applicant's specification, page 2, lines 4-5) therefore, having no analyte window is further clarified by adding the language "no unselective pores or perforations."

These amendments address the § 112, first paragraph rejection without adding new matter.

Reconsideration and withdrawal of the § 112 rejection is requested.

Rejection of the Dependent Claims

Because claims 17-20, 24, 25, 27-30 and 32-38 depend directly or indirectly from independent claim 16 and incorporate all the limitations of claim 16 they are allowable for the same reasons.

Rejection under 35 U.S.C. § 112, Second Paragraph

Claims 16-20, 24, 25, 27-30 and 32-40 Claims were rejected under 35 U.S.C. § 112, second paragraph.

Applicant traverses the § 112, second paragraph rejection. However, in order to advance prosecution, claims 16 and 39 have been amended to include that the at least one channel comprises a near-surface part adjacent to the surface of the sensor, and wherein said enzyme region is adjacent to a pair of electrodes according to the Examiner's suggestion. Claim 33 has been amended to clarify the ratio of a length of the channel and a cross-sectional area of the channel. Claim 35 has been amended to clarify the porous layer providing an increased surface area for diffusion of the analyte into the channel, whereby the concentration gradient of the analyte outside the surface of the sensor levels off reducing material deposits on the surface of the sensor thereby reducing the effect on diffusion flow of the analyte.

These amendments address the § 112, second paragraph rejection without adding new matter.

Rejection of the Dependent Claims

Because claims 17-20, 24, 25, 27-30, 32, 34, 36-38 and 40 depend directly or indirectly from independent claims 16 or 39 and incorporate all the limitations of the independent claims they are allowable for the same reasons.

Allowable Claim

Applicant thanks the Examiner for indicating that Claim 39 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph. Applicant has done so by amending claim 39 as discussed above.

Reconsideration and withdrawal of the § 112 rejection are requested.

Conclusion

Applicant submits herewith a Petition for Extension of Time along with authorization to charge Deposit Account No. 04-1420 for the appropriate fees. The Commissioner is also hereby authorized to charge any deficiencies and credit any overpayments associated with this paper to Deposit Account No. 04-1420.

This application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

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